

BEFORE THE STATE BOARD O'F EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RONALD W. MATHESON)

Appearances:

For Appellant: Ronald W. Matheson,
in pro. per,

For Respondent: Kendall E. Kinyon
Mark McEvilly
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Ronald W. Matheson against a proposed assessment of additional personal income tax and penalties in the total amount of \$3,627 for the year 1978.

Appeal of Ronald W. Matheson

The sole issue presented by this appeal is whether **appellant** has established error in respondent's proposed assessment of additional personal income tax or in the penalties assessed for the year in issue.

Respondent received information indicating that appellant **was required to** file a California income tax return for 1978. Respondent so advised appellant, and demanded that he file the required return; appellant did not respond. Thereafter, respondent issued a notice of proposed assessment based upon information received from the California Employment Development Department. The proposed assessment also included penalties for failure to file a return and failure to file upon notice and demand. **After** due consideration of appellant's protest, respondent affirmed the proposed assessment, thereby resulting in this appeal.

It is well settled that respondent's determinations of tax are presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) **This** rule also applies to the penalties assessed in this case. (Appeal of K. L. Durham, supra; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) No such proof has been presented here.

In support of his position, appellant has advanced a host of familiar contentions, including, inter alia, 'that Federal Reserve notes do not constitute lawful money or legal tender, that wages do not constitute income, and that the assertion of his Fifth Amendment privilege against self-incrimination excuses his failure to file a return for the year in issue. Each of the "arguments" raised by appellants was rejected as being without merit in the Appeals of Fred R. Dauberger, et al., decided by this board on March 31, 1982. We see no reason to depart from that decision in this appeal.

On the basis of the evidence before us, 'we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties, was fully justified. Respondent's action in this matter will, therefore, be sustained.

Finally, we note that appellant has **previously** brought an appeal before this board in which he raised the same frivolous arguments rejected here. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 66, 1980)

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As we stated in the Appeals of Robert R. Aboltin, Jr., et al., decided on June 29, 1982, "[t]o pursue an appeal under such circumstances can only be construed as an attempt to obstruct and delay the appellate review process." We find that appellant instituted and has pursued this proceeding merely for the purpose of delay. Accordingly, pursuant to Revenue and Taxation Code section 19414,^{1/} a penalty in the amount of five hundred dollars (\$500) shall be imposed against him.

1/ Section 19414 provides as follows:

Whenever it appears to the State Board of Equalization or any court of record of this state that proceedings before it under this part have been instituted by the taxpayer merely for delay, a penalty in an amount not in excess of five hundred dollars (\$500) shall be imposed. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

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O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Ronald W. Matheson against a proposed assessment of additional personal income tax and penalties in the total amount of \$3,627 for the year 1978, be and the same is hereby sustained, and that a \$500 delay penalty under section 19414 be imposed against him and the Franchise Tax Board shall collect the same.

Done at Sacramento, California, this 17th day of **August**, 1982, by the State Board of Equalization, with Board Members **Mr. Bennett**, **Mr. Collis**, **Mr. Dronenburg** and Mr. Nevins present.

William M. Bennett, Chairman
Ernest J. Dronenburg, Jr., Member
Richard Nevins, Member
_____, Member
_____, Member